



General Assembly

January Session, 2001

***Raised Bill No. 1389***

LCO No. 4678

Referred to Committee on Labor and Public Employees

Introduced by:  
(LAB)

***AN ACT CONCERNING DEPENDENTS OF DECEASED WORKERS'  
COMPENSATION RECIPIENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-306 of the general statutes is repealed and the  
2 following is substituted in lieu thereof:

3 (a) Compensation shall be paid to dependents on account of death  
4 resulting from an accident arising out of and in the course of  
5 employment or from an occupational disease as follows:

6 (1) Four thousand dollars shall be paid for burial expenses in any  
7 case [where] in which the employee died on or after October 1, 1988. If  
8 there is no one wholly or partially dependent upon the deceased  
9 employee, the burial expenses of four thousand dollars shall be paid to  
10 the person who assumes the responsibility of paying the funeral  
11 expenses.

12 (2) To those wholly dependent upon the deceased employee at the  
13 date of [his] the deceased employee's injury, a weekly compensation  
14 equal to seventy-five per cent of the average weekly earnings of the

15 deceased calculated pursuant to section 31-310, after such earnings  
16 have been reduced by any deduction for federal or state taxes, or both,  
17 and for the federal Insurance Contributions Act made from such  
18 employee's total wages received during the period of calculation of the  
19 employee's average weekly wage pursuant to said section 31-310, as of  
20 the date of the injury but not more than the maximum weekly  
21 compensation rate set forth in section 31-309 for the year in which the  
22 injury occurred or less than twenty dollars weekly. (A) The weekly  
23 compensation rate of each dependent entitled to receive compensation  
24 under this section as a result of death arising from a compensable  
25 injury occurring on or after October 1, 1977, shall be adjusted annually  
26 as provided in this subdivision as of the following October first, and  
27 each subsequent October first, to provide the dependent with a cost-of-  
28 living adjustment in [his] the dependent's weekly compensation rate as  
29 determined as of the date of the injury under section 31-309. If the  
30 maximum weekly compensation rate, as determined under the  
31 provisions of said section 31-309, to be effective as of any October first  
32 following the date of the injury, is greater than the maximum weekly  
33 compensation rate prevailing at the date of the injury, the weekly  
34 compensation rate which the injured employee was entitled to receive  
35 at the date of the injury or October 1, 1990, whichever is later, shall be  
36 increased by the percentage of the increase in the maximum weekly  
37 compensation rate required by the provisions of said section 31-309  
38 from the date of the injury or October 1, 1990, whichever is later, to  
39 such October first. The cost-of-living increases provided under this  
40 subdivision shall be paid by the employer without any order or award  
41 from the commissioner. The adjustments shall apply to each payment  
42 made in the next succeeding twelve-month period commencing with  
43 the October first next succeeding the date of the injury. With respect to  
44 any dependent receiving benefits on October 1, 1997, with respect to  
45 any injury occurring on or after July 1, 1993, and before October 1,  
46 1997, such benefit shall be recalculated to October 1, 1997, as if such  
47 benefits had been subject to recalculation annually under this  
48 subparagraph. The difference between the amount of any benefits

49 [which] that would have been paid to such dependent if such benefits  
 50 had been subject to such recalculation and the actual amount of  
 51 benefits paid during the period between such injury and such  
 52 recalculation shall be paid to the dependent not later than December 1,  
 53 1997, in a lump-sum payment. The employer or [his] its insurer shall  
 54 be reimbursed by the Second Injury Fund, as provided in section 31-  
 55 354, for adjustments, including lump-sum payments, payable under  
 56 this subparagraph for deaths from compensable injuries occurring on  
 57 or after July 1, 1993, and before October 1, 1997, upon presentation of  
 58 any vouchers and information that the Treasurer shall require. (B) The  
 59 weekly compensation rate of each dependent entitled to receive  
 60 compensation under this section as a result of death arising from a  
 61 compensable injury occurring on or before September 30, 1977, shall be  
 62 adjusted as of October 1, 1977, and October 1, 1980, and thereafter, as  
 63 provided in this subdivision to provide the dependent with partial  
 64 cost-of-living adjustments in [his] the dependent's weekly  
 65 compensation rate. As of October 1, 1977, the weekly compensation  
 66 rate paid prior to October 1, 1977, to the dependent shall be increased  
 67 by twenty-five per cent. The partial cost-of-living adjustment provided  
 68 under this subdivision shall be paid by the employer without any  
 69 order or award from the commissioner. In addition, on each October  
 70 first, the weekly compensation rate of each dependent as of October 1,  
 71 1990, shall be increased by the percentage of the increase in the  
 72 maximum compensation rate over the maximum compensation rate of  
 73 October 1, 1990, as determined under the provisions of section 31-309  
 74 existing on October 1, 1977. The cost of the adjustments shall be paid  
 75 by the employer or [his] its insurance carrier who shall be reimbursed  
 76 [therefor] for such cost from the Second Injury Fund as provided in  
 77 section 31-354 upon presentation of any vouchers and information that  
 78 the Treasurer shall require.

79 (3) If the surviving spouse is the sole presumptive dependent,  
 80 compensation shall be paid until death or remarriage.

81 (4) If there is a presumptive dependent spouse surviving and also

82 one or more presumptive dependent children, all of which children are  
83 either children of the surviving spouse or are living with the surviving  
84 spouse, the entire compensation shall be paid to the surviving spouse  
85 in the same manner and for the same period as if the surviving spouse  
86 were the sole dependent. If, however, any of the presumptive  
87 dependent children are neither children of the surviving spouse nor  
88 living with the surviving spouse, the compensation shall be divided  
89 into as many parts as there are presumptive dependents. The shares of  
90 any children having a presumptive dependent parent shall be added to  
91 the share of the parent and shall be paid to the parent. The share of any  
92 dependent child not having a surviving dependent parent shall be  
93 paid to the father or mother of the child with whom the child may be  
94 living, or to the legal guardian of the child, or to any other person, for  
95 the benefit of the child, as the commissioner may direct.

96 (5) If the compensation being paid to the surviving presumptive  
97 dependent spouse terminates for any reason, or if there is no surviving  
98 presumptive dependent spouse at the time of the death of the  
99 employee, but there is at either time one or more presumptive  
100 dependent children, the compensation shall be paid to the children as a  
101 class, each child sharing equally with the others. Each child shall  
102 receive compensation until the child reaches the age of eighteen or dies  
103 before reaching age eighteen, provided the child shall continue to  
104 receive compensation up to the attainment of the age of twenty-two if  
105 unmarried and a full-time student, except any child who has attained  
106 the age of twenty-two while a full-time student but has not completed  
107 the requirements for, or received, a degree from a postsecondary  
108 educational institution shall be deemed not to have attained age  
109 twenty-two until the first day of the first month following the end of  
110 the quarter or semester in which [he] the child is enrolled at the time,  
111 or if [he] the child is not enrolled in a quarter or semester system, until  
112 the first day of the first month following the completion of the course  
113 in which [he] the child is enrolled or until the first day of the third  
114 month beginning after such time, whichever occurs first. When a  
115 child's participation ceases, [his] such child's share shall be divided

116 among the remaining eligible dependent children, provided if any  
117 child, when [he] the child reaches the age of eighteen years, is  
118 physically or mentally incapacitated from earning, [his] the child's  
119 right to compensation shall not terminate but shall continue for the full  
120 period of incapacity.

121 (6) In all cases where there are no presumptive dependents, but  
122 where there are one or more persons wholly dependent in fact, the  
123 compensation in case of death shall be divided according to the  
124 relative degree of their dependence. Compensation payable under this  
125 subdivision shall be paid for not more than three hundred and twelve  
126 weeks from the date of the death of the employee. The compensation,  
127 if paid to those wholly dependent in fact, shall be paid at the full  
128 compensation rate. The compensation, if paid to those partially  
129 dependent in fact upon the deceased employee as of the date of the  
130 injury, shall not, in total, be more than the full compensation rate nor  
131 less than twenty dollars weekly, nor, if the average weekly sum  
132 contributed by the deceased at the date of the injury to those partially  
133 dependent in fact is more than twenty dollars weekly, not more than  
134 the sum so contributed.

135 (7) When the sole presumptive dependents are, at the time of the  
136 injury, nonresident aliens and the deceased has in this state some  
137 person or persons who are dependent in fact, the commissioner may in  
138 [his] the commissioner's discretion equitably apportion the sums  
139 payable as compensation to the dependents.

140 (b) The dependents of any deceased employee who was injured on  
141 or after January 1, 1974, and who died not later than November 1,  
142 1991, shall be paid compensation on account of the death retroactively  
143 to the date of the employee's death. The cost of the payment or  
144 adjustment shall be paid by the employer or [his] its insurance carrier  
145 who shall be reimbursed [therefor] for such cost from the Second  
146 Injury Fund as provided in section 31-354 upon presentation of any  
147 vouchers and information that the Treasurer shall require.

148     (c) (1) The dependents of any deceased employee who was injured  
149     between January 1, 1952, and December 31, 1973, and who  
150     subsequently died, shall be paid compensation on account of the death  
151     retroactively to the date of the employee's death. The cost of the  
152     payment or adjustment shall be paid by the employer or its insurance  
153     carrier who shall be reimbursed for such cost from the Second Injury  
154     Fund as provided in section 31-354 upon presentation of any vouchers  
155     and information that the Treasurer shall require.

156     (2) The dependents of any deceased employee who was injured  
157     before January 1, 1952, and who died on or before October 1, 1991,  
158     shall be paid compensation on account of the death retroactively to the  
159     date of the employee's death. The cost of the payment or adjustment  
160     shall be paid by the employer or its insurance carrier who shall be  
161     reimbursed for such cost from the Second Injury Fund as provided in  
162     section 31-354 upon presentation of any vouchers and information that  
163     the Treasurer shall require.

164     (3) The dependents of any deceased employee who was injured  
165     between January 1, 1974, and September 30, 1978, and who died on or  
166     after November 1, 1991, shall be paid compensation on account of the  
167     death retroactively to the date of the employee's death. The cost of the  
168     payment or adjustment shall be paid by the employer or its insurance  
169     carrier who shall be reimbursed for such cost from the Second Injury  
170     Fund as provided in section 31-354 upon presentation of any vouchers  
171     and information that the Treasurer shall require.

172     [(c)] (d) The dependents of any deceased employee who was injured  
173     in an accident arising out of and in the course of employment before  
174     January 1, 1952, and who died, as a result of those injuries, after  
175     October 1, 1991, shall be paid compensation, under the provisions of  
176     this section, effective as of the date of death of any such employee.  
177     Notwithstanding the provisions of subsection (a) of this section, the  
178     weekly compensation rate for such dependents shall equal the amount  
179     of compensation the injured employee was receiving prior to death

180 pursuant to section 31-307. Such weekly compensation rate shall  
181 hereafter be adjusted in accordance with the provisions of subsection  
182 (a) of this section. The cost of such payment or adjustment shall be  
183 paid by the employer or the insurance carrier of such employer who  
184 shall be reimbursed [therefor] for such cost from the Second Injury  
185 Fund provided for in section 31-354.

186 Sec. 2. This act shall take effect from its passage.

***Statement of Purpose:***

To ensure that the dependents of deceased employees are not subject to a waiting period for the receipt of workers' compensation death benefits.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*